IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2262 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MOGARANA VIBHAG JANGAL KAMDAR SAHAKARI MANDALI LTD.

Versus

DY. RANGE FOREST OFFICER

Appearance:

MR RN SHAH for Petitioner

MS NANDINI JOSHI AGP for Respondent No. 1, 2

CORAM : MR.JUSTICE A.M.KAPADIA

Date of decision: 23/02/2001

ORAL JUDGEMENT

1. By means of filing this petition under Article 226 of the Constitution, Shri Mogarana Vibhag Jangal Kamdar Sahakari Mandali Limited, a registered Cooperative Society of labourers working in forest, challenges the high-handed action of the respondent No.1, Deputy Range

Forest Officer, Vyara of forcibly seizing 86 pieces of wood admeasuring 16.832 sq.mt. worth Rs.81,000 and records and books of accounts of the petitioner society and prays to issue a writ of mandamus or a writ in the nature of mandamus or any appropriate writ, direction or order, directing the respondents to return the said 86 pieces of wood admeasuring 16.832 sq.mt. worth Rs.81,000/- and the records and books of accounts of the petitioner society.

2. Before filing of this petition, a show cause notice was already issued against the petitioner society and pursuant to the said inquiry was held by the Deputy Conservator of Forest, Vyara.

3. While issuing rule in the matter on 28.6.1991, this court has passed the following order:

"Rule.

In view of the fact that wood worth Rs.81,000/- is taken custody of as far back as in June 1988 and show cause notice dated 10/22.8.88 is issued to the petitioner and the petitioner has already filed his reply on 17.10.88 and yet no steps are taken in the matter, interim relief directing the resp.No.1 to deliver the wood (86 pieces) is granted on the petitioner furnishing Bank Guarantee in the sum of Rs.40,000/- and security in the sum of Rs.41,000/- to the satisfaction of the resp.No.1 is granted.

D.S. permitted."

4. When the matter is called out today, Mr. M.R. Shah, learned advocate for the petitioner as well as Ms. Nandini Joshi, learned AGP for respondents are present.

5. Ms. Joshi states that pursuant to the issuance of show cause notice, inquiry was concluded vide order dated January 29, 1994. In said inquiry final order has been passed and as per the said order the members of the petitioner society had pleaded guilty and a fine of Rs.500/per employee was imposed and an amount of Rs.3000/- has already been recovered. She has produced a copy of the said order on record. As far as 86 pieces of wood admeasuring 16.832 sq.mt. is concerned, it was held that it was not the goods of forest theft. Therefore, said 86 pieces of wood were released and the bank guarantee for the sum of Rs.40,000/- has also been released.

6. In view of the aforesaid state of affairs, the grievance voiced in the petition now does not survive and

the petition, therefore, requires to be disposed of accordingly.

7. In the net result, the petition is disposed of as it does not assume any survival value. Rule is discharged with no order as to costs. Interim relief stands vacated. Copy of the order produced by Ms. Joshi is ordered to be taken record.

23.2.2001. (A.M. Kapadia, J.)

(karan)